

Message Text

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ORIGIN L-02

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TO USMISSION USUN NEW YORK PRIORITY

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E.O. 11652: N/A

TAGS: ECOSOC, UN

SUBJECT: 58TH ECOSOC SESSION AGENDA ITEM 4: RULES OF
PROCEDURE

REFS: (A) USUN 1392; (B) STATE 82799

1. DEPT CONCURS WITH USUN ANALYSIS THAT UKUN MISGIVINGS
WITH RULE 59 APPEAR MISPLACED. ADOPTION OF RULE 59 WOULD
NOT IN DEPT VIEW MATERIALLY SUPPORT POSSIBLE ACTION OF
HOSTILE GA PRESIDENT DENYING MEMBER THE RIGHT TO A VOTE,
SINCE THAT RIGHT IS INCONTROVERTIBLY ROOTED IN THE UN
CHARTER, AND MAY NOT BE LEGALLY DENIED. MOREOVER, THERE
IS NOT, TO OUR KNOWLEDGE, ANY PRECEDENT IN LONG UNGA
HISTORY FOR DENIAL OF RIGHT OF MEMBER TO A VOTE. EVEN
AT 19TH SESSION WHEN BY GENERAL AGREEMENT NO VOTES WERE
TO BE TAKEN BECAUSE OF ARTICLE 19 IMPASSE, ALBANIAN INSIS-
TENCE ON A VOTE WAS SUCCESSFUL. FURTHERMORE, IT IS CHARAC-
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TERISTIC OF RULES OF UN ORGANS TO REPEAT EITHER TERMS

OR IMPORT OF CHARTER PROVISIONS AS RULE 59 DOES. THUS, WHILE SAYING TO UKUN THAT WE APPRECIATE THE POINT OF ITS APPREHENSION, WE ON BALANCE CONCLUDE THAT IT IS MOST DESIRABLE THAT RULE 59 BE RETAINED, AND, IF POSSIBLE, REFINED IN THE CONSTRUCTIVE MANNER

PROPOSED. COMMENT: IF YOU BELIEVE REPRESENTATIONS IN LONDON WILL BE USEFUL, PLEASE ADVISE. END COMMENT.

2. DEPT CONSIDERED ORIGINAL VERSION PROPOSED RULE 59 ("...A PROPOSAL OR MOTION BEFORE THE COUNCIL FOR DECISION MUST BE VOTED UPON IF A REPRESENTATIVE SO REQUESTS") A HELPFUL AFFIRMATION OF THIS FUNDAMENTAL EXISTING CHARTER RIGHT. DEPT CONSIDERS NEW VERSION (REFTEL A, PARA 1) OF RULE 59 AS IMPROVEMENT OVER ORIGINAL. ADDITIONAL LANGUAGE ("WHERE NO MEMBER REQUESTS A VOTE, THE COUNCIL MAY ADOPT PROPOSALS OR MOTIONS WITHOUT A VOTE") MAY BE USEFUL IN CLARIFYING IN ECOSOC AND ITS NUMEROUS SUB-ORGANS THE PRECISE ATTRIBUTES OF A CONSENSUS DECISION. IN VARIOUS UN FORA "CONSENSUS" DECISIONS ARE RECORDED AS ADOPTIONS "WITHOUT A VOTE". NEW VERSION RULE 59, IF ADOPTED, COULD HELP MAKE CLEAR THAT IF ONE MEMBER OBJECTS, THERE IS NO CONSENSUS. USUN MAY WISH MAKE PRECEDING POINTS TO UKUN.

3. WHETHER RULE 59 IS ADOPTED, WITHDRAWN OR REJECTED, USUN SHOULD MAKE POINTS SENT REFTTEL B, PARA 2A. INDEED, IF RULE 59 IS RPT IS ADOPTED, USUN SHOULD MAKE STATEMENT ALONG LINES THAT RULE 59 IS HELPFUL STATEMENT OF IMPORTANT PRINCIPLE OF UN CHARTER, AND A PRINCIPLE APPLICABLE AND PRACTICED IN ALL UN BODIES, THOUGH THEIR RULES MAY NOT EXPRESSLY ADDRESS THE POINT. USUN MAY WISH TO ADVISE UKUN IT PLANS TO MAKE THIS STATEMENT. UKUN MIGHT WISH TO HAVE SIMILAR REMARKS REFLECTED IN RECORD.

4. AS NOTED ABOVE, DEPT FAVORS PROPOSED REVISION OF RULE 59. DEPT WOULD APPRECIATE FURTHER REPORT CONCERNING PROPOSED CHANGE IN RULE: WHAT DELEGATION PROPOSED CHANGE AND FOR WHAT APPARENT OR ACTUAL REASONS, AND REACTIONS OF OTHER DELS.

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5. RE UK NLM PROPOSAL FOR RULE 72. DIFFICULTY IN LIMITING NLM PARTICIPATION TO MATTERS OF PARTICULAR CONCERN TO THEM IS NOT APPARENT TO DEPT. THIS IS SO ESPECIALLY SINCE PARTICIPATION OF UN MEMBERS NOT MEMBERS OF ECOSOC IS LIMITED BY THAT QUALIFICATION. (SEE RULE 72 IN E/5634.) IN ANY CASE, UK PROPOSAL IS BASICALLY UNACCEPTABLE BECAUSE IT PERMITS NLMS TO "SUBMIT PROPOSALS WHICH MAY BE PUT TO THE VOTE BY REQUEST OF ANY MEMBER OF

THE COUNCIL". EVEN IF UK PROPOSAL DID NOT SO PROVIDE, IT WOULD PROBABLY BE AMENDED TO SO PROVIDE. ACCORDINGLY, DEPT MAINTAINS ITS STRONG PREFERENCE FOR A SEPARATE RULE (IF ANY) ON NLMS. NATURALLY, WERE IT POSSIBLE TO SUBSTITUTE A TERM SUCH AS "OBSERVER DESIGNATED BY AN ENTITY SPECIFIED BY THE GA" FOR NLM, THAT WOULD BE ESPECIALLY DESIRABLE.

6. UKUN PROPOSAL FOR RULE 41 IS ACCEPTABLE, AS ARE THE ALTERNATIVES IN E/5634. USUN MAY SUPPORT UK PROPOSAL, BUT SHOULD NOT, UNLESS IT DEEMS IT ADVISABLE, TAKE LEAD IN SUPPORT. KISSINGER

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